

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ROBERT COX, AS ADMINISTRATOR	:	
OF THE ESTATE OF GRETA COX,	:	Case No. 1:22-cv-00026
DECEASED, <i>et al.</i>,	:	
	:	(Judge Douglas R. Cole)
Plaintiffs,	:	
	:	
-v-	:	
	:	
TOTAL QUALITY LOGISTICS, INC.,	:	
<i>et al.</i>,	:	
	:	
Defendants.	:	

**DEFENDANT TOTAL QUALITY LOGISTICS, LLC’S MOTION FOR LEAVE TO FILE
A RESPONSE TO PLAINTIFFS’ SUPPLEMENTAL MEMORANDUM
IN OPPOSITION TO DEFENDANT’S MOTION TO DISMISS**

Pursuant to Local Rule 7.2(a)(2), Defendant moves for leave to file the attached Response to Plaintiffs’ Supplemental Memorandum in Opposition to Defendant’s Motion to Dismiss. Leave is appropriate because of a material omission in Plaintiffs’ Supplemental Memorandum regarding the United States’ amicus brief and the United States Supreme Court’s denial of certiorari for the Ninth Circuit Court of Appeals’ decision in *Miller v. C.H. Robinson Worldwide, Inc.*, 976 F.3d 1016, 1021 (9th Cir. 2020). In particular, Plaintiffs’ Supplemental Memorandum omits the actual reasons cited in United States’ amicus brief as to why certiorari review is not warranted at this time, and instead suggests or implies that the Supreme Court denied certiorari simply because the Court agreed with the United States on the legal merits of *Miller*—which is not correct.

Good cause exists for a short Response because the Supreme Court’s certiorari denial in *Miller* relates directly to the legal issues raised in Defendant’s pending Motion to Dismiss. In addition, good cause exists because a Response is necessary to assure that the Court has the full

context and significance of the Supreme Court's denial in hand when considering its persuasiveness and authority when reaching a decision on the pending Motion to Dismiss.

Because good cause exists, Defendant respectfully requests that the Court grant its Motion for Leave. For the Court's convenience, a proposed Order is attached.

Dated: July 14, 2022.

Respectfully submitted,

/s/ Gregory M. Utter

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CERTIFICATE OF SERVICE

Pursuant to Local Rule 5.2(b), I hereby certify that a copy of the foregoing was electronically filed using the Court's CM/ECF system on July 14, 2022. Parties will be served through the Court's CM/ECF system.

/s/ Gregory M. Utter

Gregory M. Utter (0032528)